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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,762	07/15/2003	Takeharu Muramatsu	1254-0230P	6012
2292	7590	08/30/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			ST CYR, DANIEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/618,762	MURAMATSU ET AL.	
	Examiner	Art Unit	
	Daniel St.Cyr	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,8,9,11 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5,8,9,11 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>attached</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This is in response to the applicant communication filed 7/17/06.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5, 8, 11, 14, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukuda et al, US Patent No. 5,953,290.

Fukuda et al disclose a recording medium and reproduction apparatus for displaying data synchronously with reproduction of audio data comprising: an imaging device (reading head 202) for imaging encoded data 101 including a header portion 132 and a body portion 125 (the encoded data in the body portion is audio data, it serves as ring tone data), said header portion including a data identifier indicating the type of data in the body portion; a data identifying unit (reproduction unit) that recognizes said data identifier and estimate (identifies) the type of said encoded data image by said imaging device based on said encoded data identified; and a control unit 122 that reads the contents of said encoded data in a manner suited for the type of data estimated by said identifying unit and reproduces the data (see fig. 1; col. 5, line 45+ and col. 6, line 14+).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2876

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 8, 9, 11, 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al, US patent No. 5,659,167, in view of Fukuda et al. The teachings of Fukuda have been discussed above.

Wang et al disclose a visually interactive decoding of dataforms comprising: a dataform reader (CCD, laser or CMOS) is utilized to read at least a portion of a dataform to provide electrical signals representative of the scanned portion; a display for displaying of a visual representation of the scanned portion (part or all) of the dataform; if the display shows the reading relationship to be satisfactory, decoding of the dataform is activated by the operator or by the decoder automatically; a determination is automatically made as to the type of dataform (e.g., matrix code 66 or bar code 68) represented by the pixel image data resulting from scanning of the dataform of interest; a decoder 36 is arranged to recognize pertinent characteristics of different dataforms of interest and thereby identify the particular type of dataform represented by the pixel image data at hand at any particular time; the decoder 36 is also equipped to apply the decoding protocol appropriate for the identified dataform type; the decoding is carried out using the protocol appropriate for the form of a particular type of dataform and in accordance with the design, coding and decoding characteristics and specifications associated with such dataform; and providing output signals representative of the entry data.

Wang et al disclose identifying the type of data using the pixel image, but fail to fairly suggest employing a header having an identifier in the code to identify the type of data encoded in the code symbol.

See Fukuda above.

In view of Fukuda's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the teachings of Wang et al to include a header portion in the code symbol for identifying the type of code/data encoded. Such modification would enhance the decoding process by accurately identifying the type of code or data encoded. Once the type of code is determined, appropriate action could take to improve the reader performance so as to decode the encoded data with greater accuracy. With respect to the data being a ring tone data or audio type of data, this is merely a recitation of the intended use. There is no structural difference between the claimed invention and the prior art, it is not patentably distinguish from the prior art. The prior art structure is capable of performing the intended use. And with respect to the terminal being a cellular phone, such specific limitation is for meeting specific customer requirement. An artisan would have been motivated to integrate the scanner into a cellular phone in order to process audio/ring tone data (see Daisuke previously applied to the claims). Therefore, the modification would have been an obvious extension as taught by the Wang et al.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

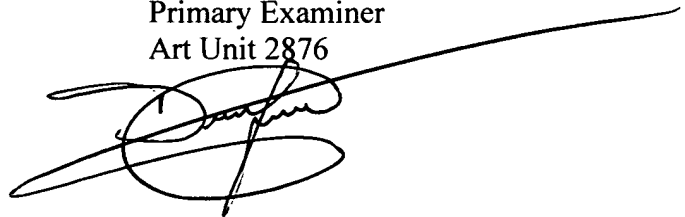
Art Unit: 2876

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel St.Cyr
Primary Examiner
Art Unit 2876

A handwritten signature in black ink, appearing to be 'Daniel St.Cyr', is written over the printed name and title. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

DS
August 16, 2006